

are made, secured by pledge of the securities mentioned in Section 9660, General Code, the amount of such securities to be pledged shall be equal in par or market value or shall be double the amount of the loan. Obviously, therefore, the rates at which certain securities are accepted as collateral security in no way affect the rates at which building and loan associations may invest their funds in such securities.

In view of the foregoing, it is my opinion that building and loan associations may invest their idle funds in the classes of securities accepted by the United States to secure government deposits in national banks and postal savings deposits in national and state banks, at the market value of such securities, regardless of the rates at which such securities are accepted by the federal government as collateral security for such deposits.

In your communication you ask whether building and loan associations may invest *at par, or market value if above par*, in the securities above referred to. In order not to be misunderstood, I wish to advise you that in making such investments building and loan associations should be guided by the market value of the securities and not by the par value. In other words, the power to invest carries with it the power to invest at the market value and although certain bonds may be accepted by the United States for collateral security purposes at par, if the market price happens to be below par, building and loan associations are not required to pay par for such securities, but should purchase the same at their market value.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2275.

ROADS — IMPROVEMENT — CONDEMNATION PENDING BEFORE EFFECTIVE DATE OF NORTON-EDWARDS ACT, DISCUSSED

SYLLABUS:

Where proceedings for the improvement of an inter-county highway were instituted and the county commissioners have proceeded to determine the amount of compensation for land appropriated, together with damages to the residue, prior to January 2, 1928, the effective date of the Norton-Edwards act, such proceedings may be completed in the manner prescribed by Section 1201 of the Code prior to its amendment, including the proceedings on appeal to the probate court.

COLUMBUS, OHIO, June 25, 1928.

HON. C. O. TURNER, *Prosecuting Attorney, Coshocton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication of recent date, as follows:

“In the year 1927 it was determined to improve a certain inter-county highway leading from Coshocton, Ohio, to Millersburg, Ohio. The portion of said highway herein involved is I. C. H. No. 343, Sec. C, which passes through lands in Mill Creek Township, Coshocton County, Ohio, and owned by Clarence Patterson and Etta Patterson.

The board of county commissioners and the owners of the property through which the proposed highway was to pass could not agree upon the value of the land to be appropriated and the damages. The county commissioners, therefore, proceeded to pass a resolution providing for the appropriation of the right-of-way through said premises, and in accordance with Section 6915 of the General Code of Ohio, fixed the compensation and damages in the sum of six hundred dollars and filed their petition in the Probate Court of said county for said purpose on November 21, 1927, issued a summons thereunder to the owners of the property and deposited the sum of six hundred dollars in accordance therewith.

On December 6, 1927, the owners of the real estate filed their notice in the Probate Court to the effect that an appeal would be taken from said finding. On December 7, 1927, the amount of the bond was fixed in the sum of two hundred dollars, and a bond for said amount was duly filed by the owners of the real estate on December 9, 1927, which was approved by the Judge of the Probate Court.

The hearing on appeal was not had prior to January 1, 1928, and when the matter was taken up in Court it was discovered that House Bill No. 67, Ohio Laws, Vol. 112, pages 430 to 501, inclusive, had repealed the former sections of the General Code with regard to appeal in such cases, with the exception of Section 6915, G. C. Said House Bill No. 67 apparently made no provision for cases that were pending on January 1, 1928, the date when said repealing statute became a law.

The facts further show that the appellants did not at the time of the final hearing had before the Board of County Commissioners give notice in writing of an intention to appeal, as provided for in Section 6891-1, G. C.

Upon this statement of facts the Probate Judge is at a loss to know as to whether or not he can lawfully proceed with a hearing on the question of damages involved in this case, or whether the repealing of the Code sections relative to such appeals would vacate the proceedings filed in said court."

From your statement of fact it is quite apparent that the proceeding for the improvement of the inter-county highway in question was pending at the date upon which the Norton-Edwards act became effective. Presumably application for this improvement had been made sometime during the year 1927 and proceedings had prior to January 2, 1928, the date on which the Norton-Edwards act became effective, and the proceedings had been carried to the point where the county commissioners had found the value of the land to be appropriated and the amount of the damages to the remainder.

There have been numerous previous opinions of this department passing upon questions as to the application of the Norton-Edwards act to various pending proceedings and it is unnecessary to make reference to all of these opinions. The effect of those holdings has been that any proceeding, which was initiated prior to January 2, 1928, could be consummated under the provisions of law in force and effect at the time the proceedings were instituted and without regard to the changes and repeals of statutes incident to the enactment of that bill. I deem 'it sufficient, in answer to your inquiry, to refer to Opinion No. 2110, dated May 17, 1928, and addressed to Hon. Mervin Day, Prosecuting Attorney, Paulding County, Ohio. The syllabus of that opinion is as follows:

"Where an application for state aid has been filed under the provisions of Section 1191, General Code, prior to the effective date of House Bill

No. 67 (112 O. L. 430), the filing of such application constitutes a proceeding which is pending within the meaning of Section 26 of the General Code of Ohio so that in all instances where it is necessary to acquire right of way for a road improvement it is the duty of the board of county commissioners to proceed under the provisions of former Section 1201, General Code, to acquire the requisite right of way."

In that instance the application for state aid was held to make the proceeding one that was pending so as to render inapplicable the sections of House Bill No. 67, and it was held that the commissioners should proceed under the provisions of former Section 1201 of the General Code. From your statement of fact I assume that this is the section under which the commissioners acted in the case you cite. Quite obviously their proceedings had progressed much farther than in the case covered by the opinion to which I have referred.

I am enclosing herewith a copy of Opinion No. 2110, a perusal of which will disclose to you the reasons for the conclusion set forth in the syllabus above quoted.

Since Section 1201 of the Code as it formerly read has application, where the proceedings are pending, and since in this instance there can be no question about the pendency of such proceedings, I have no hesitancy in saying that those portions of such section that pertain to appeal are still in force and effect so far as this proceeding is concerned. This is especially true in view of the fact that Section 26 of the Code specifically provides that "when the repeal or amendment relates to the remedy, it shall not affect pending actions, prosecutions or proceedings, unless so expressed", and no such expression is found in the Norton-Edwards act.

I am accordingly of the opinion that, where proceedings for the improvement of an inter-county highway were instituted and the county commissioners have proceeded to determine the amount of compensation for land appropriated, together with damages to the residue, prior to January 2, 1928, the effective date of the Norton-Edwards act, such proceedings may be completed in the manner prescribed by Section 1201 of the Code prior to its amendment, including the proceedings on appeal to the Probate Court.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2276.

POLITICAL ACTIVITY—TRUSTEES OF FIREMEN'S AND POLICE RELIEF FUNDS—MAY ORGANIZE TO FURTHER AMENDMENTS TO STATUTES INVOLVING THEIR WORK.

SYLLABUS:

Where the trustees of firemen's pension funds and of police relief funds effect an organization for the purpose of furthering amendments of the statutes under which they function, and where members of police and fire departments join such organization, such action is not such political activity as constitutes taking part in politics within the purview of Section 486-23, General Code.

COLUMBUS, OHIO, June 25, 1928.

HON. GEORGE H. BENDER, *Chairman, Senate Fees and Salaries Committee, Cleveland Heights, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent request for my opinion which reads as follows: